

**CORRECTED OPINION:  
CONDITION NO. 11**

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY  
(240) 777-6600**

Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. S-2610 [S-2611, S-2612]**

**PETITION OF PETSMART, INC.**

**OPINION OF THE BOARD**

(Effective Date of Opinion: January 25, 2005)

Case Nos. S-2610, S-2611 and S-2612 are applications by Petsmart, for three, related special exception uses: 1) S-2610 - a 9432 square-foot animal boarding place (59-G-2.02); 2) S-2611 - a 2053 square-foot veterinary hospital (59-G-2.32); and 3) S-2612 - a 21,436 square-foot pet shop (59-G-2.41) occupying 32,921 square feet in an existing building. In a Resolution dated April 1, 2004, the Board granted consolidation of the cases, pursuant to Rule 1.7 of the Board's Rules of Procedure.

The subject property is Lot 3, Block 2, Sack's Subdivision, located at 4605 Bradley Boulevard; Bethesda, Maryland, 20814, in the CBD-1 Zone.

The Hearing Examiner for Montgomery County convened a public hearing on the three applications on September 27, 2004, closed the record in the case on October 18, 2004, and on December 1, 2004, issued a report and recommendation for approval of all three uses.

Decision of the Board:                      Special Exceptions **granted**, subject  
to conditions enumerated below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksessions on December 15, 2004 and January 5, 2005, after careful consideration and a review of the record in the case, the Board adopts the Report and Recommendation and **grants** the special exceptions, subject to the following conditions:

1.     Petitioner's testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, shall bind the petitioner and Medical Management, Inc. (Banfield), to the extent that such evidence and

representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.

2. All conditions of approval of the Bethesda View project plan, site plan, and preliminary plan shall remain in effect.

3. Petitioner's store hours shall be between 7 a.m. and 9 p.m. daily except Sunday when the store will close at 7 p.m. Members of the public shall have no access to the facility at other times. The number of employees shall not exceed 31.

4. Petitioner shall designate one or more employees to make hourly inspections of the parking facility, building elevators, and adjacent sidewalks along Bradley Boulevard and Wisconsin Avenue to remove animal waste. Pet waste or litter generated in the complex and not flushed out through the drainage system shall be placed in the dumpster in sealed bags or other sealed containers. Dumpsters shall be emptied daily except on Sundays and on holidays when County dumps are closed. Other internal and external cleaning will be governed by petitioner's operations manual (exhibit 34, att.1).

5. Petitioner shall contract with one or more state-licensed, EPA-approved, medical waste removal companies to collect medical waste and dead animals from the veterinary hospital. Medical waste and dead animals shall never be placed in the dumpster. They may briefly be stored in the freezer in the veterinary hospital pending collection.

6. No animals will be accepted for boarding, grooming, training or non-emergency medical care without prior arrangement. Petitioner shall provide at least four reserved parking spaces in the underground parking garage, near the entrance, for drop-offs and pick-ups. It shall station staff at the lay-by drop-off area at the Bradley Boulevard entrance and in the parking facility to facilitate the transfer of possession of animals in order to ensure that customer cars not impede traffic lanes. Petitioner shall erect signs directing customers to other parking facilities when the building parking lot is full.

7. No more than 250 dogs and cats may be in the facility at any time. The occupancy of the animal boarding facility after store hours shall be a maximum of 152 dogs and 24 cats. At least one employee will be on the premises at all times after hours. The maximum number of cats in the adoption area of the pet shop after hours will be sixteen. No other dogs or cats may be housed overnight in any other portion of the facility except that an animal maybe kept overnight in the veterinary hospital for a medical emergency provided that at least one Banfield or additional PetsMart employee will remain with the sick animal during that time.

8. Petitioner shall promptly designate one or more animal evacuation stores to which animals will be evacuated in the event of fire or other disaster.

Petitioner shall also draw up site-specific emergency plans for after hours, including having employees on call to assist.

9. Petitioner shall provide soundproofing and ventilation in accordance with the specifications listed in exhibit 31, paragraphs 11-18.

10. A copy of written approval of Petitioner's signs by the Sign Review Board shall be filed in the Board of Appeals record within ten days of its issuance by the Sign Review Board.

**11. Any new exhaust vents and equipment associated with the ventilation system shall be directed away from the residential uses at Bethesda View and The Strathmore.**

On a motion by Louise L. Mayer, seconded by Wendell M. Holloway, with Angelo M. Caputo and Donna L. Barron, Vice-Chair in agreement, and Allison Ishihara Fultz, Chair necessarily not participating, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

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Donna L. Barron  
Vice Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 25<sup>th</sup> day of January, 2005.

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Katherine Freeman  
Executive Secretary to the Board

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See

Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.